

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ryan Contractors, Inc., 5223 Germantown Avenue, Suite #110 Philadelphia, PA 19144

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Duane L. Lassiter, Esquire, Lassiter & Associates, P.C.,
1515 Market Street, Suite 1200, Philadelphia, PA 19102

DEFENDANTS

Small Business Administration and Isabella Caillas Guzman,
409 3rd Street, SW, Washington, DC 20416

County of Residence of First Listed Defendant District of Columbia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
5 U.S.C. 706 and 28 U.S.C. 2201 and 2202

Brief description of cause:
SBA review of request for COVID-19 EIDL increase

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 8/15/23 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

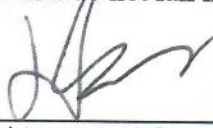
CASE MANAGEMENT TRACK DESIGNATION FORM

Ryan Contractors, Inc.	:	CIVIL ACTION
	:	
v.	:	
Small Business Administration and	:	
Isabella Casillas Guzman	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

<u>8/15/2023</u>		<u>Ryan Contractors, Inc.</u>
Date	Attorney-at-law	Attorney for
<u>(215) 923-8833</u>	<u>(215) 923-1611</u>	<u>duanelassiter@lassiterfirm.com</u>
Telephone	FAX Number	E-Mail Address

(Civ. 660) 10/02

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 5223 Germantown Avenue, Suite #110, Philadelphia, PA 19144

Address of Defendant: 409 3rd Street, SW, Washington, DC 20416

Place of Accident, Incident or Transaction: Philadelphia, PA

RELATED CASE IF ANY:

Case Number: _____ Judge: _____ Date Terminated _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: _____

Attorney-at-Law (Must sign above)

Attorney I.D. # (if applicable)

Civil (Place a \checkmark in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☐ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☒ 15. All Other Federal Question Cases. *(Please specify):* _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury *(Please specify):* _____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: *(Please specify)* _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Duane L. Lassiter, Esquire, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: August 15, 2023

Attorney-at-Law (Sign here if applicable)

81323

Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RYAN CONTRACTORS, INC. :
5223 Germantown Avenue :
Suite #110 :
Philadelphia, PA 19144 :

Plaintiff, :

v. :

SMALL BUSINESS ADMINISTRATION :
409 3rd Street, SW :
Washington, DC 20416 :

and :

ISABELLA CASILLAS GUZMAN :
Administrator, SBA :
409 3rd Street, SW :
Washington, DC 20416 :

Defendants :

COMPLAINT FOR DECLARATORY, INJUNCTIVE AND MANDAMUS RELIEF

Ryan Contractors, Inc., by and through its attorneys, Lassiter & Associates, P.C., alleges and states as follows:

INTRODUCTION AND BACKGROUND

1. This is an action under the Administrative Procedure Act (“APA”), 5 U.S.C. § 706, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking emergency federal financial assistance unlawfully withheld by Defendants, Small Business Administration (“SBA”) and its Administrator, Isabella Casillas Guzman.

2. The COVID-19 Economic Injury Disaster Loan (“EIDL”) and EIDL Advance programs were established to provide funding to help small businesses recover from the economic impacts of the COVID-19 pandemic.

3. COVID-19 EIDL funding was offered in two types: a) COVID-19 EIDL loan funds to be used for working capital and other normal operating expenses which are repayable; and b) EIDL Advance Funds which were forgivable.

4. Beginning October 8, 2021, the maximum loan amount under the COVID-19 EIDL program was increased to \$2,000,000.00.

5. The COVID-19 EIDL funding is administered by the SBA and Administrator Casillas Guzman.

6. As of May 6, 2022, the SBA stopped processing COVID-19 EIDL loan increase requests or requests for reconsideration of previously declined loan applications.

7. Ryan Contractors, Inc., is a small business that provides construction contracting, construction management and property rehabilitation services.

8. Ryan Contractors, Inc. made an initial application for Covid-19 EIDL funding and was determined to be eligible for initial funding in the original amount of \$111,500.00.

9. The initial application was approved, and all required funding documents were executed and finalized on August 10, 2020. The funds were disbursed to Ryan Contractors, Inc. thereafter.

10. Ryan Contractors, Inc. applied for a COVID-19 EIDL increase on or about January 15, 2021.

11. In its application, Ryan Contractors, Inc. demonstrated that it qualified for a COVID-19 EIDL increase.

12. Ryan Contractors, Inc. complied with all requests for additional documentation required by the defendants and otherwise met the requirements for a COVID-19 EIDL increase.

13. Ryan Contractors, Inc.'s supporting documentation included tax return documentation and specific answers to SBA requests.

14. The COVID-19 pandemic has had a devastating impact on Ryan Contractors, Inc., causing

a substantial and devastating decrease in revenue for the Company.

15. Ryan Contractors met all requirements for a COVID-19 EIDL increase well in advance of May 6, 2022.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because it presents federal questions under the APA.

17. Venue lies in this district under 28 U.S.C. § 1391(e)(1) because Plaintiff, Ryan Contractors, Inc., has its place of business and legal address in this District.

18. This Court has authority to issue declaratory and injunctive relief under 5 U.S.C. § 706 and 28 U.S.C. §§ 2201 and 2202.

THE PARTIES

19. Ryan Contractors, Inc., is a small business that provides construction contracting, construction management and property rehabilitation services with headquarters in Philadelphia, PA.

20. Defendant, SBA, is an independent agency of the federal government. The SBA's mission is to help Americans start, build and grown businesses.

21. Defendant, Isabella Casillas Guzman, is the Administrator of the SBA and oversees its operations. Administrator Isabella Casillas Guzman is being sued in her official capacity.

CLAIMS FOR RELIEF

COUNT I: ARBITRARY AND CAPRICIOUS AGENCY ACTION

22. The allegations contained in all preceding paragraphs are incorporated here as if set forth fully and here reiterated in their entirety.

23. The courts recognize a strong presumption favoring judicial review of administrative

action.

24. The APA provides that “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702.

25. The APA provides that “final agency action for which there is no other adequate remedy in a court” is “subject to judicial review.” 5 U.S.C. § 704.

26. The APA provides that courts will “hold unlawful and set aside” agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” or “unsupported by substantial evidence.” 5 U.S.C. § 706(2)(A) and (E), respectively.

27. The SBA is an “agency” whose final actions are reviewable under the APA.

28. A basic requirement of administrative law is that an agency provide the reasons for its decisions.

29. However, the SBA gave no reason for failing to act on Ryan Contractors, Inc.’s COVID-19 EIDL increase.

30. The SBA’s failure to act on Ryan Contractors, Inc.’s application for a COVID-19 EIDL increase conflicts with the evidence of Ryan Contractors, Inc.’s eligibility that it presented to SBA in its application and its subsequently submitted documentation.

31. For each of these reasons, the SBA’s failure to act on Ryan Contractors, Inc.’s eligibility for a COVID-19 EIDL increase is arbitrary and capricious.

32. At a minimum, there is no way to determine that the agency’s action was reasonable in the absence of any explanation for that action.

COUNT II: AGENCY ACTION CONTRARY TO LAW

33. The allegations contained in all preceding paragraphs are incorporated here as if set forth fully and here reiterated in their entirety.

34. Ryan Contractors, Inc. demonstrated eligibility for a COVID-19 EIDL increase.

35. The SBA's failure to act on Ryan Contractors, Inc.'s request for a COVID-19 EIDL increase therefore violated the Act and is contrary to law.

COUNT III: AGENCY DECISION UNSUPPORTED BY SUBSTANTIAL EVIDENCE

36. The allegations in all preceding paragraphs are incorporated and made part of this paragraph as if fully set forth here.

37. The SBA's failure to act on Ryan Contractors, Inc.'s request for a COVID-19 EIDL increase and approve an increase is contrary to the evidence.

38. Ryan Contractors, Inc.'s application and subsequently furnished materials presented substantial evidence that demonstrates that Ryan Contractors, Inc. is eligible for a COVID-19 EIDL increase for which it applied.

COUNT IV: MANDAMUS RE: ISSUANCE OF A FORMAL DECISION

39. The allegations contained in all preceding paragraphs are incorporated here as if set forth fully and here reiterated in their entirety.

40. As set forth herein, the SBA has never issued a formal decision regarding Ryan Contractors, Inc.'s request for a COVID-19 EIDL increase.

41. The absence of a formal decision and explanation could well impede judicial review.

PRAYER FOR RELIEF

For the foregoing reasons, Ryan Contractors, Inc., respectfully prays unto the Court to:

- a. Order Defendants to issue a formal decision clarifying the basis for their inaction on plaintiff's request for a COVID-19 EIDL increase;

- b. Preliminarily and permanently order Defendants to consider Ryan Contractors, Inc.'s application for a COVID-19 EIDL increase consistent with applicable law and the evidence before the SBA;
- c. Preliminarily and permanently order Defendants to award a COVID-19 EIDL increase to Ryan Contractors, Inc.;
- d. Award Plaintiff their costs and reasonable attorney fees; and
- e. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted by,

Dated: August 15, 2023

LASSITER & ASSOCIATES, P.C.

BY: /s/ **Duane L. Lassiter**

Duane L. Lassiter, Esquire
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Attorney for Plaintiff
Ryan Contractors, Inc